

Rule 4. Prosecution of public offenses.

(a) Unless otherwise provided, all offenses shall be prosecuted by indictment or information sworn to by a person having reason to believe the offense has been committed.

(b) An indictment or information shall charge the offense for which the defendant is being prosecuted by using the name given to the offense by common law or by statute or by stating in concise terms the definition of the offense sufficient to give the defendant notice of the charge. An information may contain or be accompanied by a statement of facts sufficient to make out probable cause to sustain the offense charged where appropriate. Such things as time, place, means, intent, manner, value and ownership need not be alleged unless necessary to charge the offense. Such things as money, securities, written instruments, pictures, statutes and judgments may be described by any name or description by which they are generally known or by which they may be identified without setting forth a copy. However, details concerning such things may be obtained through a bill of particulars. Neither presumptions of law nor matters of judicial notice need be stated.

(c) The court may strike any surplus or improper language from an indictment or information.

(d) The court may permit an information to be amended at any time before trial has commenced so long as the substantial rights of the defendant are not prejudiced. If an additional or different offense is charged, the defendant has the right to a preliminary hearing on that offense as provided under these rules and any continuance as necessary to meet the amendment. The court may permit an indictment or information to be amended ~~at any time~~ after the trial has commenced but before verdict if no additional or different offense is charged and the substantial rights of the defendant are not prejudiced. After verdict, an indictment or information may be amended so as to state the offense with such particularity as to bar a subsequent prosecution for the same offense upon the same set of facts.

(e) When facts not set out in an information or indictment are required to inform a defendant of the nature and cause of the offense charged, so as to enable him to

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31 prepare his defense, the defendant may file a written motion for a bill of particulars. The
32 motion shall be filed at arraignment or within ten days thereafter, or at such later time
33 as the court may permit. The court may, on its own motion, direct the filing of a bill of
34 particulars. A bill of particulars may be amended or supplemented at any time subject to
35 such conditions as justice may require. The request for and contents of a bill of
36 particulars shall be limited to a statement of factual information needed to set forth the
37 essential elements of the particular offense charged.

38 (f) An indictment or information shall not be held invalid because any name
39 contained therein may be incorrectly spelled or stated.

40 (g) It shall not be necessary to negate any exception, excuse or proviso contained in
41 the statute creating or defining the offense.

42 (h) Words and phrases used are to be construed according to their usual meaning
43 unless they are otherwise defined by law or have acquired a legal meaning.

44 (i) Use of the disjunctive rather than the conjunctive shall not invalidate the
45 indictment or information.

46 (j) The names of witnesses on whose evidence an indictment or information was
47 based shall be endorsed thereon before it is filed. Failure to endorse shall not affect the
48 validity but endorsement shall be ordered by the court on application of the defendant.
49 Upon request the prosecuting attorney shall, except upon a showing of good cause,
50 furnish the names of other witnesses he proposes to call whose names are not so
51 endorsed.

52 (k) If the defendant is a corporation, a summons shall issue directing it to appear
53 before the magistrate. Appearance may be by an officer or counsel. Proceedings
54 against a corporation shall be the same as against a natural person.
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